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INFO RUCNRAQ/IRAQ COLLECTIVE

UNCLAS BAGHDAD 000042

SIPDIS

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DEPT for NEA/RA

E.O. 12958: N/A

TAGS: [KBCT](#) [ABLD](#) [PHUM](#) [AL](#) [ECON](#) [AMGT](#) [ASUP](#) [AFIN](#) [IZ](#)  
SUBJECT: WAIVER REQUESTED -- Section 565 Waiver of Prohibition  
against Contracting with Firms that comply with the Arab League  
Boycott or Discriminate in the Basis of Religion

REF: STATE 166398

11. (SBU) Section 565 of Title V, Part C of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (PL 103-236, 22 USC 2679c) prohibits the Department of State from entering into any contract, except real estate leases and contracts below the small purchase threshold (currently \$100,000), that expends funds appropriated to the Department of State with a foreign person that complies with the Arab League boycott of Israel, or with any foreign or United States person that discriminates in the award of subcontracts on the basis of religion.

12. (SBU) Reftel requested that Posts that will not be able to carry on diplomatic functions while meeting either or both of the requirements of Section 565 send a cable requesting a waiver of the relevant requirement(s) and justifying the request.

13. (SBU) Post's request for waiver for 2007 stated, "Iraq does not maintain diplomatic relations with Israel. The U.S. Embassy in Baghdad has reported instances in which Iraqi agencies have sought to enforce compliance with boycott requirements. The current requirements of Iraqi law in this regard are not clear, and this has been the subject of ongoing discussions between the USG and the GOI. The Embassy believes that local firms would generally be unable to provide the certification necessary under Section 565. Therefore, without a waiver, the Embassy would potentially be unable to obtain essential supplies and services in-country."

14. (SBU) Post's experience over the contracting year has indicated that, despite previous presumptions to the contrary, local firms contracting with Post's GSO Contracting Officer have in all cases been able to provide the certification necessary under Section 565. The Embassy's ability to obtain essential supplies and services, to the extent that these are procured in-country, has not been hampered. Nonetheless, not all agencies at Post have been able to obtain the necessary certification.

15. (SBU) Iraq does not maintain diplomatic relations with Israel. While, the Department of State has included the boycott noncompliance clause outlined under Section 565 in all GSO-originated contracts in 2007, the current requirements of Iraqi law remain unclear. Post therefore must request a waiver because of ambiguities under Iraqi law and potential compliance with the boycott by subcontracting entities.

16. (SBU) For the reasons stated in para 5 above, Post requests a waiver of the relevant requirement(s) of Section 565.

CROCKER